

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

C. EARL GRANT,

Plaintiff,

vs.

**NATIONAL BOARD OF MEDICAL EXAMINERS,
FEDERATION OF STATES MEDICAL BOARD,
Defendants.**

VERIFIED COMPLAINT

2007-CV-

Plaintiff, by and through his attorney complains of the Defendants as follows:

SUMMARY OF ACTION

This is an action to protect Plaintiff's rights to take all medical licensing examinations administered by the National Board of Medical Examiners and the Federation of States Medical Board and their associates and according to the rules of the United States Medical Licensing Examination, and for breach of the implied and express contract, and to protect his rights under the USMLE agreement with its test takers.

1. Plaintiff is an African American.
2. Plaintiff is a citizen of the United States.
3. Plaintiff is a resident of the county of Jefferson and state of New York.
4. Defendant USMLE is the entity that tests and certifies individuals for licensing as physicians in the United States.

5. Defendant Federation of State is an entity affiliated with USMLE and NBME which tests and certifies individuals for licensing as physicians in the United States.
6. National Board of Medical Examiners is an entity affiliated with USMLE that tests and certifies individuals for licensing as physicians in the United States.
7. Jurisdiction is appropriate pursuant to 28 U.S.C. § 1331, as there is diversity of citizenship.
8. Jurisdiction is appropriate as the amount in controversy is in excess of \$150,000.00
9. Venue is appropriate in this district as Plaintiff is a resident of Jefferson County, and the State of New York.
10. Plaintiff has completed all of the requirements for graduation with an MD Degree.
11. Plaintiff has successfully completed steps I and II of the USMLE examination.
12. Defendants in their Information Bulletin for the USMLE examination set out a procedure for rescoring and regrading of the examination.
13. Plaintiff is an individual with a disability as established in a prior action between Plaintiff and Defendants.
14. Plaintiff and Defendants settled the prior case with a Settlement Agreement.
15. As part of that Agreement, Defendants agreed to rescore by hand examinations taken by Plaintiff.
16. Subsequent to that agreement, Plaintiff took and successfully passed Step II of the USMLE examination.
18. Subsequeunt to passing Step II of the USMLE examination, Plaintiff has taken the Step III

examination on five (5) separate occasions

19. On each of those testings, Plaintiff's score was just below the score deemed acceptable for passing.
20. After each of the testings, Plaintiff requested that his examinations be rescored and regraded by the procedure set out by the Defendants.
21. Defendants have refused to rescore and regrade Plaintiff's examinations.
22. On July 11, 2003, Plaintiff took Step III of the USMLE and received a score of 65+.
23. On July 21, 2004, Plaintiff took Step III of the USMLE and received a score of 67+.
24. On December 7, 2004, Plaintiff took Step III of the USMLE and received a score of 66+.
25. On July 25, 2005, Plaintiff took Step III of the USMLE and received a score of 64+.
26. On November 1, 2006, Plaintiff took Step III of the USMLE and received a score of 65+.
27. A score of 75 was required on these examinations to achieve a rating of pass.
28. Dr. Grant would have received a passing grade on each of these examinations if they had been graded correctly.
29. Defendants have breached their agreement with test takers by not providing him with an accurate scoring of his test.
30. Defendants have breached the Settlement Agreement with Plaintiff by not rescoring the five (5) Step III examinations that he took.
31. Previously, Defendants agreed to rescore by hand Plaintiff's Step I and Step II examinations.
 - A. Defendant informed Plaintiff that they had rescored the examinations and that the score he was given was accurate.

- B. In fact, Plaintiff, his attorney and a representative of Defendant reviewed the first, second and third examinations that Plaintiff took for USMLE Step II. They determined that contrary to their written position, the Defendants had not rescored by hand the examinations.
- C. One of the three examinations was partially regraded by hand. The others had not been regraded at all.
32. Plaintiff has been harmed economically as a result of these mis-graded examinations.
33. Plaintiff has lost at least \$1,000,000.00 in wages due to Defendants' actions.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION

34. Plaintiff repeats as if specifically realleged the allegations in paragraphs numbered one through 33.
35. Defendants violated Plaintiff's rights under the settlement agreement by not scoring his examinations objectively.

AS AND FOR A SECOND CAUSE OF ACTION

36. Plaintiff repeats as if specifically realleged the allegations in paragraphs numbered one through 33.
37. Defendants breached its contract with Plaintiff, as a test taker, by not scoring his examination objectively.

AS AND FOR A THIRD CAUSE OF ACTION

38. Plaintiff repeats as if specifically realleged the allegations in paragraphs numbered one through 33.
39. Defendants breached their own internal rules by not rescoring Plaintiff's examinations when requested.

AS AND FOR A FOURTH CAUSE OF ACTION

40. Plaintiff repeats as if specifically realleged the allegations in paragraphs numbered one through 33.
41. Defendants harmed Plaintiff in a sum exceeding \$500,000.00 as his lost wages due to Defendant's discriminatory scoring exceed that sum.

WHEREFORE Plaintiff respectfully requests that this Court

1. Order the USMLE to rescore objectively his Step III examinations.
2. Grant Plaintiff judgment in the amount of \$500,000.00 or the amount determined at trial to be his wages lost due to Defendants' inaccurate scoring of his examinations.

Dated: September 18, 2007

/s/ Stefan D. Berg

Stefan D. Berg
Attorney for Plaintiff
Berg Law Office
309 Arnold Avenue
Syracuse, New York 13210
(315) 476-0806

INDIVIDUAL VERIFICATION

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

C. Earl Grant, being duly sworn, deposes and say that he is the **Plaintiff** in the within action; that the **Plaintiff** has read the foregoing **Verified Complaint** and knows the contents thereof; that the same is true to **Plaintiff's** own knowledge except as to the matters therein stated to be alleged upon information and belief and that as to those matters **Plaintiff** believes them to be true.

/s/ C. Earl Grant

C. Earl Grant

Sworn to me on this
18th day of September, 2007

/s/ Stefan D. Berg

Notary Public
State of New York
No. 50003899
Qualified in ONONDAGA COUNTY
Commission Expires November 2, 2010